

HUGH A. JOHNSON

IBLA 80-345

Decided September 9, 1980

Appeal from a decision of the Colorado State Office, Bureau of Land Management, returning unfiled tendered documents pertaining to appellant's placer mining claim, Blue Devil #19, CMC 150873.

Affirmed as modified.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment--Mining Claims: Location--Mining Claims: Recordation

Under 43 CFR 3833.1-2(a) and 3833.4(a), the owner of an unpatented mining claim located on or before Oct. 21, 1976, must file a copy of the recorded notice or certificate of location with the Bureau of Land Management by Oct. 22, 1979, or the claim is deemed abandoned and void.

2. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment--Mining Claims: Location--Mining Claims: Recordation--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant and duly promulgated statutes and regulations.

APPEARANCES: Hugh A. Johnson, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Hugh A. Johnson appeals from the December 31, 1979, decision of the Colorado State Office, Bureau of Land Management (BLM), declining to file documents tendered by appellant pertaining to the Blue Devil #19 placer mining claim.

The claim was conveyed to appellant by quitclaim deed dated March 17, 1976. On October 18, 1979, under 43 U.S.C. § 1744 (1976), appellant submitted to BLM various documents pertaining to the claim and stated, "I plan to hold this claim." BLM held the filing incomplete because "a copy of the official record of the notice of location and a copy of the evidence of assessment work for the preceding (1978/1979) assessment year was not enclosed as required." BLM cited 43 CFR 3833.1-2(a), (c), (d), 3833.2-1(a), and 3833.4. On January 15, 1980, appellant stated he not done assessment work "last year."

[1] Departmental regulation, 43 CFR 3833.1-2(a), implementing 43 U.S.C. § 1744 (1976), states in part:

The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands * * * shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law.

Because appellant failed to timely file a copy of the notice or certificate of location, it is not necessary to consider 43 CFR 3833.2-1(a), which requires filing of evidence of assessment work or notice of intention to hold. Pursuant to the mandate of section 1744, the applicable regulation, 43 CFR 3833.4, provides in part: "The failure to file an instrument required by § 3833.1-2(a) * * * of this title within the time periods prescribed therein shall be deemed conclusively to constitute an abandonment of the mining claim, mill or tunnel site and it shall be void."

Where the owner of an unpatented mining claim located prior to October 21, 1976, fails to file the required documents with the proper BLM office on or before October 22, 1979, his claim must be deemed conclusively to be abandoned and null and void. Kenneth K. Parker, 48 IBLA 129 (1980).

[2] Appellant states in his notice of appeal that he did not know he was required to send a copy of the notice or certificate of location to BLM. All persons dealing with the Government are presumed to have knowledge of relevant and duly promulgated statutes and regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Canyon View Mining Co., 49 IBLA 184 (1980); 44 U.S.C. §§ 1507, 1510 (1976). Neither the Federal Land Policy and Management Act of 1976 nor the regulations provide the Department any leeway in the application of the penalty for failure to file the required documents. Despite the intent of appellant, the claim is determined to be abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified.

Joseph W. Goss
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Edward W. Stuebing
Administrative Judge

